

STATE OF MICHIGAN
COURT OF APPEALS

DAGS, LLC,

Plaintiff-Appellant,

v

SCOTT T. BOSGRAAF, Individually and as Co-Trustee of the SCOTT T. BOSGRAAF TRUST, SEAN FITZGERALD, SARA E. D. FAZIO, RYAN R. MCNALLY, KRIES, ENDERLE, HUDGINS & BORSOS, P.C., JENNIFER M. TICHELAAR, BYRON GALLAGHER, JR., and the GALLAGHER LAW FIRM, PLC,

Defendants,

and

NORM KELLOGG and FIRST FINANCIAL BANK, N.A.,

Defendants-Appellees.

DAGS, LLC, as assignee of AUTO SPORTS UNLIMITED, INC.,

Plaintiff-Appellant,

v

FIRST FINANCIAL BANK, N.A. and NORM KELLOGG,

Defendants-Appellees.

Before: TALBOT, P.J., and KELLY and SERVITTO, JJ.

PER CURIAM.

UNPUBLISHED
August 25, 2015

No. 320965
Ottawa Circuit Court
LC No. 12-002810-CZ

No. 320972
Ottawa Circuit Court
LC No. 13-003320-CZ

In these consolidated appeals, DAGS, Inc. appeals as of right an order of the trial court granting summary disposition with regard to its claims raised in two separate complaints. We affirm.

After Scott T. Bosgraff, his wife Suzanne L. Bosgraaf, and their various businesses (collectively, “the Bosgraafs”) defaulted on loans held by First Financial Bank, N.A. (“First Financial”), First Financial asserted first-priority interests in real estate located at 200 N. Franklin in Zeeland (the “Franklin Property”) and the assets of Auto Sports Unlimited, Inc. (“ASU”). Three separate lawsuits were filed, all of which contested which of the Bosgraafs’ creditors was entitled to the senior priority interest in these two assets, among others. In these three suits, the trial court determined that First Financial held the senior priority interest in these assets. On appeal, this Court affirmed the trial court’s opinion. *First Financial Bank, NA v Bosgraaf*, unpublished opinion per curiam of the Court of Appeals, issued August 11, 2015 (Docket No.’s 320881 and 321004); *Huntington National Bank v Auto Sports Unlimited, Inc.*, unpublished opinion per curiam of the Court of Appeals, issued August 18, 2015 (Docket No. 320905).

DAGS, LLC (“DAGS”), as assignee of ASU, Scott T. Bosgraaf, and the Scott T. Bosgraaf trust, filed two additional lawsuits. Both lawsuits alleged that First Financial, its vice-president, Norm Kellogg, and various attorneys and their firms interfered with business relationships and contracts when First Financial attempted to enforce its security interests.¹ All of these claims were based on a belief that First Financial did not hold a senior interest in the assets it held. After it determined that First Financial did hold the senior interest in these assets, the trial court granted summary disposition with regard to the claims raised by DAGS. DAGS now appeals from this decision.

The first five issues raised by DAGS, each of which contests the trial court’s priority decisions, are identical to those raised by the Bosgraafs in *First Financial Bank, NA* and *Huntington National Bank, supra*. In *First Financial Bank, NA*, this Court found that these contentions of error were without merit, and affirmed the trial court’s conclusion that First Financial did hold the senior interest with regard to the Franklin Property and ASU assets. For the same reasons as discussed in *First Financial Bank, NA*, we find no errors requiring reversal arising out of these five issues.

The final issue raised in the instant appeal is also controlled by this Court’s prior decision. This issue contests whether the trial court correctly granted summary disposition with regard to the claims raised by DAGS in its complaints. The only argument put forth by DAGS is that because it believes the trial court’s priority determinations were incorrect, the trial court erred by granting summary disposition with regard to these claims. DAGS acknowledges that if the trial court correctly found that First Financial held the senior interest in these assets, “it logically follows that the [t]rial [c]ourt would grant summary disposition in favor of [d]efendants” with regard to the claims raised by DAGS. As this Court has already determined

¹ The claims asserted were multiple counts of tortious interference, conversion, and counts alleging an abuse of the civil process.

that First Financial held the senior interest in the Franklin Property and ASU assets, we find no error requiring reversal in the instant appeal.

Affirmed.

/s/ Michael J. Talbot
/s/ Kirsten Frank Kelly
/s/ Deborah A. Servitto